

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</div> <div>as representative of</div> <div>THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i></div> <div>Debtors.<sup>1</sup></div>	<div>PROMESA Title III</div> <div>Case No. 17 BK 3283-LTS (Jointly Administered)</div>
<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO</div> <div>as representative of</div> <div>PUERTO RICO ELECTRIC POWER AUTHORITY,</div> <div>Debtor.</div>	<div>PROMESA Title III</div> <div>Case No. 17 BK 4780-LTS</div>

**JOINT RESPONSE TO (A) NOTICE OF MEDIATION TEAM’S PROPOSED  
AMENDED ORDER ESTABLISHING TERMS AND CONDITIONS OF MEDIATION,  
and (B) PROPOSED AMENDED ORDER ESTABLISHING THE TERMS**

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations.)

**TO THE HONORABLE DISTRICT COURT:**

**COME NOW** Unión de Trabajadores de la Industria Eléctrica y Riego, Inc. (“UTIER”) and Sistema de Retiro de Empleados de la Autoridad de Energía Eléctrica (“SREAE”) duly represented by the undersigned counsel and respectfully state as follows:

1. UTIER and SREAE hereby jointly respond to the (a) *Notice of Mediation Team’s Proposed Amended Order Establishing Terms and Conditions of Mediation*, and the (b) *Proposed Amended Order Establishing Terms and Conditions of Mediation*.
2. Before addressing the Mediation Team’s filings, UTIER and SREAE reiterate their request that the Court reduce the pace in these proceedings to account for the difficult circumstances in Puerto Rico following Hurricane Fiona. The undersigned, like most of the country, are still struggling with lack of power and water, and the incidental difficulties the lack of those essential services pose. Moreover, as the Court may be aware, there is an availability crisis of gas and diesel, necessary fuels to run backup power plants. Moreover, internet and cellphone reception are intermittent and not reliable.
3. That said, UTIER and SREAE jointly file this brief response to object to the *Proposed Amended Order Establishing Terms and Conditions of Mediation* [**Case No. 17-03283-LTS, Docket No. 22350**] The mediation process has failed. Rather than provide a holistic process to move forward the Puerto Rico Electric Power Authority’s (“PREPA”) restructuring, the mediation process committed to the same blind spot of prior negotiations: to negotiate solely with bondholders. The mediation process has been little more than a repetition of the same negotiations dating back to the beginning of PREPA’s bankruptcy, with the added expense of the Mediation Team’s financial advisors.
4. To continue the mediation would duplicate costs and efforts for all the parties. The burden

would outweigh the potential benefits. Additionally, providing the Mediation Team the authority to pause the ongoing litigation is excessive and would defeat the purpose of reinitiating it.

5. Moreover, the proposal of a “Toggle Plan” stands to unfairly influence this Court and vitiate the mediation process. By forcing the Oversight Board to provide a Plan of Adjustment Alternative that ignores the issues being litigated and relies only on capacity of payment, the mediation process will continue to revolve around the bondholders' contention that rates should be raised to secure their payment. Meanwhile the validity and nature of the bonds and the priority of that debt *vis-à-vis* the debt owed to the PREPA employees' pension plan, which are central to this bankruptcy proceeding, are not being addressed. As the Court knows, SREAEE and UTIER have asserted that PREPA's retirement system and current expenses have priority over the bond debt, as provided by the 1974 Trust Agreement.

**WE HEREBY CERTIFY** that on this same date we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all participants and Standard Parties. A courtesy copy of this Motion will be delivered to the Court by email to [SwainDPRCorresp@nysd.uscourts.gov](mailto:SwainDPRCorresp@nysd.uscourts.gov) as provided in *First Amended Standing Order*.

**In Ponce, Puerto Rico, this 23<sup>rd</sup> day of September 2022.**



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